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6	Venice, California 90291 Telephone: (310) 590-1820		
7			
8	Attorneys for Plaintiff		
9	UNITED STATES D	ISTRICT COURT	
10	CENTRAL DISTRICT OF CALIFORNIA		
11	CENTRAL DISTRIC	TOT CALIFORNIA	
12	NOVELTY TEXTILE, INC., a California	Case No.:	
13	Corporation,	PLAINTIFF'S COMPLAINT FOR:	
14	Plaintiff,	1. COPYRIGHT INFRINGEMENT;	
15	,	2. VICARIOUS AND/OR	
16	V.	CONTRIBUTORY COPYRIGHT INFRINGEMENT	
17	GOJANE.COM, a California Corporation;		
18	BETTER BE, INC., a California Corporation; and DOES 1-10,	Jury Trial Demanded	
19	Corporation, and DOLD 1 10,		
20	Defendants.		
21			
22	NOVELTY TEXTILE, INC., by and through its undersigned attorneys, hereby		
23	prays to this honorable Court for relief based on the following:		
24	JURISDICTION AND VENUE		
25	1. This action arises under the Copyright Act of 1976, Title 17 U.S.C.,		
26	§§ 101, et seq.		
27			
28	1	ADVT	
	COMPL	(3.1.3) 1	

2. This Court has federal question jurisdiction under 28 U.S.C. §§ 1331 and 1338 (a) and (b).

3. Venue in this judicial district is proper under 28 U.S.C. §§ 1391(c) and 1400(a) in that this is the judicial district in which a substantial part of the acts and omissions giving rise to the claims occurred.

#### **PARTIES**

- 4. Plaintiff NOVELTY TEXTILE, INC. is a corporation organized and existing under the laws of the State of California with its principal place of business located at 2944 East 44<sup>th</sup> Street, Vernon, CA 90058.
- 5. Plaintiff is informed and believes and thereon alleges that Defendant GOJANE.COM ("GOJANE") is a corporation organized and existing under the laws of the State of California, with its principal place of business at 950 N. Barrington Avenue, Ontario, CA 91764.
- 6. Plaintiff is informed and believes and thereon alleges that Defendant BETTER BE, INC. ("BETTER BE") is a corporation organized and existing under the laws of the State of California with its principal place of business at 1100 S. San Pedro Street, # C02, Los Angeles, CA 90015.
- 7. Plaintiff is informed and believes and thereon alleges that Defendant DOES 1-10, inclusive, is a manufacturer, and/or a vendor (and/or agent or employee to a manufacturer or vendor) of garments to Defendant, which DOE Defendants have manufactured and/or supplied and are manufacturing and/or supplying fabrics and other product printed with Plaintiff's copyrighted designs (as hereinafter defined) without Plaintiff's knowledge or consent or have contributed to said infringement. The true names, whether corporate, individual or otherwise of Defendants DOES 1-10, inclusive, are presently unknown to Plaintiff, which therefore sues said Defendants by such fictitious names and will seek leave to amend this complaint to show their true names and capacities when same have been ascertained.

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- 8. Defendants DOES 1 through 10, inclusive, are other parties not yet identified who have infringed Plaintiff's copyrights, have contributed to the infringement of Plaintiff's copyrights, or have engaged in one or more of the wrongful practices alleged herein. The true names, whether corporate, individual or otherwise, of Defendants 1 through 10, inclusive, are presently unknown to Plaintiff, which therefore sues said Defendants by such fictitious names, and will seek leave to amend this Complaint to show their true names and capacities when same have been ascertained.
- 9. Plaintiff is informed and believes and thereon alleges that at all times relevant hereto each of the Defendants was the agent, affiliate, officer, director, manager, principal, alter-ego, and/or employee of the remaining Defendants and was at all times acting within the scope of such agency, affiliation, alter-ego relationship and/or employment; and actively participated in or subsequently ratified and adopted, or both, each and all of the acts or conduct alleged, with full knowledge of all the facts and circumstances, including, but not limited to, full knowledge of each and every violation of Plaintiff's rights and the damages to Plaintiff proximately caused thereby.

#### **CLAIMS RELATED TO DESIGN NO. 1020**

- 10. Plaintiff owns an original two-dimensional artwork used for purposes of textile printing entitled 1020 (the "Subject Design"). The Subject Design is an original work of authorship, and is, and at all relevant times was, owned in exclusivity by Plaintiff.
- 11. Plaintiff applied for and received a United States Copyright Registration for the Subject Design prior to the commencement of this Action.
- 12. Prior to the acts complained of herein, Plaintiff widely disseminated fabric bearing the Subject Design to numerous parties in the fashion and apparel industries.

13. Plaintiff is informed and believes and thereon alleges that, following this distribution of fabric bearing the Subject Design and without Plaintiff's authorization, Defendants manufactured, distributed, and/or sold fabric and/or garments comprised of fabric featuring a design which is identical or substantially similar to the Subject Design (the "Subject Product"), including but not limited to garments sold by GOJANE under Style No. P-5597-A / Code No. 94727-PINK-Flower Hour Abstract Print Leggings and Style No. D-10534 / Code No.96274-MINT-Pretty In Paint Cut-Out Floral Dress. Such Subject Product bore the label "Better Be," indicating that said garments were manufactured by, caused to be manufactured by, or supplied by BETTER BE or DOE Defendants.

14. A comparison of the Subject Design and two exemplars of the Subject Product is displayed below. It is apparent that the elements, composition, arrangement, layout, and appearance of the designs at issue are identical or substantially similar:

## **SUBJECT DESIGN**



#### SUBJECT PRODUCT EXEMPLARS



COMPLAINT



## FIRST CLAIM FOR RELIEF

(For Copyright Infringement - Against All Defendants)

- 1. Plaintiff repeats, re-alleges and incorporates herein by reference as though fully set forth the allegations contained in the preceding paragraphs of this Complaint.
- 2. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, had access to the Subject Design, including, without limitation, through (a) access to Plaintiff's showroom and/or design library; (b) access to illegally distributed copies of the Subject Design by third-party vendors and/or DOE Defendants, including without limitation international and/or overseas converters and printing mills; (c) access to Plaintiff's strike-offs and samples, and (d) access to garments manufactured with fabric lawfully printed through Plaintiff.
- 3. Plaintiff is informed and believes and thereon alleges that one or more of the Defendants manufactures garments and/or is a garment vendor. Plaintiff is

COMPLAINT

- 4. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, infringed Plaintiff's copyright by creating, making and/or developing directly infringing and/or derivative works from the Subject Design and by producing, distributing and/or selling garments which infringe the Subject Design through a network of retail stores and on-line outlets.
- 5. Due to Defendants' acts of infringement, Plaintiff has suffered substantial damages to its business in an amount to be established at trial.
- 6. Due to Defendants' acts of infringement, Plaintiff has suffered general and special damages in an amount to be established at trial.
- 7. Due to Defendants' acts of copyright infringement as alleged herein, Defendants, and each of them, have obtained direct and indirect profits they would not otherwise have realized but for their infringement of the Subject Design. As such, Plaintiff is entitled to disgorgement of Defendant's profits directly and indirectly attributable to Defendant's infringement of the Subject Design in an amount to be established at trial.

#### **SECOND CLAIM FOR RELIEF**

(For Vicarious and/or Contributory Copyright Infringement - Against All Defendants)

8. Plaintiff repeats, realleges and incorporates herein by reference as though fully set forth the allegations contained in the preceding paragraphs of this Complaint.

- 9. Plaintiff is informed and believes and thereon alleges that Defendants knowingly induced, participated in, aided and abetted in and profited from the illegal reproduction and/or subsequent sales of product featuring the Subject Design as alleged hereinabove.
- 10. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, are vicariously liable for the infringement alleged herein because they had the right and ability to supervise the infringing conduct and because they had a direct financial interest in the infringing conduct.
- 11. By reason of the Defendants', and each of their, acts of contributory and vicarious infringement as alleged above, Plaintiff has suffered and will continue to suffer substantial damages to its business in an amount to be established at trial, as well as additional general and special damages in an amount to be established at trial.
- 12. Due to Defendants' acts of copyright infringement as alleged herein, Defendants, and each of them, have obtained direct and indirect profits they would not otherwise have realized but for their infringement of the Subject Design. As such, Plaintiff is entitled to disgorgement of Defendants' profits directly and indirectly attributable to Defendants' infringement of the Subject Design, in an amount to be established at trial.

#### PRAYER FOR RELIEF

Wherefore, Plaintiff prays for judgment as follows:

# Against All Defendants

- 1. With Respect to Each Claim for Relief
  - a. That Defendants, their agents and employees be enjoined from infringing Plaintiff's copyrights in any manner, specifically those for the Subject Design;
  - b. That Plaintiff be awarded all profits of Defendants plus all losses of Plaintiff, plus any other monetary advantage gained by the Defendants

COMPLAINT

trial, or, if elected before final judgment, statutory damages as under the Copyright Act, 17 U.S.C. §§ 101, et seq.;  c. That Plaintiff be awarded its attorneys' fees as available under Copyright Act U.S.C. §§ 101, et seq.;  d. That Plaintiff be awarded pre-judgment interest as allowed by e. That Plaintiff be awarded the costs of this action; and  f. That Plaintiff be awarded such further legal and equitable relice Court deems proper.  A TRIAL BY JURY PURSUANT TO FED. R. CIV. P. 38 AND				
under the Copyright Act, 17 U.S.C. §§ 101, et seq.;  c. That Plaintiff be awarded its attorneys' fees as available under Copyright Act U.S.C. §§ 101, et seq.;  d. That Plaintiff be awarded pre-judgment interest as allowed by e. That Plaintiff be awarded the costs of this action; and f. That Plaintiff be awarded such further legal and equitable relic Court deems proper.  A TRIAL BY JURY PURSUANT TO FED. R. CIV. P. 38 AND CONSTITUTIONAL AMENDMENT SEVEN IS HEREBY DEMANDED Dated: February 23, 2015  By: /s/ Scott Alan Burroughs Scott Alan Burroughs Scott Alan Burroughs Attorneys for Plaintiff Novelty Textile, Inc.	1	through their infringement, the exact sum to be proven at the time of		
c. That Plaintiff be awarded its attorneys' fees as available under Copyright Act U.S.C. §§ 101, et seq.;  d. That Plaintiff be awarded pre-judgment interest as allowed by e. That Plaintiff be awarded the costs of this action; and f. That Plaintiff be awarded such further legal and equitable relic Court deems proper.  A TRIAL BY JURY PURSUANT TO FED. R. CIV. P. 38 AND CONSTITUTIONAL AMENDMENT SEVEN IS HEREBY DEMANDED Dated: February 23, 2015  By: /s/ Scott Alan Burroughs Scott Alan Burroughs Scott Alan Burroughs Attorneys for Plaintiff Novelty Textile, Inc.	2	trial, or, if elected before final judgment, statutory damages as available		
Copyright Act U.S.C. §§ 101, et seq.;  d. That Plaintiff be awarded pre-judgment interest as allowed by e. That Plaintiff be awarded such further legal and equitable relic Court deems proper.  A TRIAL BY JURY PURSUANT TO FED. R. CIV. P. 38 AND CONSTITUTIONAL AMENDMENT SEVEN IS HEREBY DEMANDED  Dated: February 23, 2015  By: /s/Scott Alan Burroughs Scott Alan Burroughs Attorneys for Plaintiff Novelty Textile, Inc.	3	under the Copyright Act, 17 U.S.C. §§ 101, et seq.;		
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e. That Plaintiff be awarded the costs of this action; and f. That Plaintiff be awarded such further legal and equitable relia Court deems proper.  A TRIAL BY JURY PURSUANT TO FED. R. CIV. P. 38 AND CONSTITUTIONAL AMENDMENT SEVEN IS HEREBY DEMANDED  Dated: February 23, 2015  By: /s/ Scott Alan Burroughs Scott Alan Burroughs Attorneys for Plaintiff Novelty Textile, Inc.  Page 20 Page 21 Page 22 Page 23 Page 24 Page 24 Page 25 Page 26 Page 26 Page 26 Page 27 Page 28 P	5	Copyright Act U.S.C. §§ 101, et seq.;		
f. That Plaintiff be awarded such further legal and equitable relic Court deems proper.  A TRIAL BY JURY PURSUANT TO FED. R. CIV. P. 38 AND CONSTITUTIONAL AMENDMENT SEVEN IS HEREBY DEMANDED  By: /s/ Scott Alan Burroughs Scott Alan Burroughs, Esq. Trevor W. Barrett, Esq. DONIGER / BURROUGHS Attorneys for Plaintiff Novelty Textile, Inc.	6	d. That Plaintiff be awarded pre-judgment interest as allowed by law;		
Court deems proper.  A TRIAL BY JURY PURSUANT TO FED. R. CIV. P. 38 AND CONSTITUTIONAL AMENDMENT SEVEN IS HEREBY DEMANDED  Dated: February 23, 2015  By: /s/ Scott Alan Burroughs Scott Alan Burroughs, Esq. Trevor W. Barrett, Esq. DONIGER / BURROUGHS Attorneys for Plaintiff Novelty Textile, Inc.	7	e. That Plaintiff be awarded the costs of this action; and		
A TRIAL BY JURY PURSUANT TO FED. R. CIV. P. 38 AND CONSTITUTIONAL AMENDMENT SEVEN IS HEREBY DEMANDED  Dated: February 23, 2015  By: /s/ Scott Alan Burroughs Scott Alan Burroughs, Esq. Trevor W. Barrett, Esq. DONIGER / BURROUGHS Attorneys for Plaintiff Novelty Textile, Inc.	8	f. That Plaintiff be awarded such further legal and equitable relief as the		
A TRIAL BY JURY PURSUANT TO FED. R. CIV. P. 38 AND CONSTITUTIONAL AMENDMENT SEVEN IS HEREBY DEMANDED  Dated: February 23, 2015  By: /s/ Scott Alan Burroughs Scott Alan Burroughs, Esq. Trevor W. Barrett, Esq. DONIGER / BURROUGHS Attorneys for Plaintiff Novelty Textile, Inc.	9	Court deems proper.		
CONSTITUTIONAL AMENDMENT SEVEN IS HEREBY DEMANDED  Dated: February 23, 2015  By: /s/ Scott Alan Burroughs Scott Alan Burroughs Scott Alan Burroughs Attorneys for Plaintiff Novelty Textile, Inc.	LO	10		
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Dated: February 23, 2015  By: /s/ Scott Alan Burroughs Scott Alan Burroughs, Esq. Trevor W. Barrett, Esq. DONIGER / BURROUGHS Attorneys for Plaintiff Novelty Textile, Inc.	L2	CONSTITUTIONAL AMENDMENT SEVEN IS HEREBY DEMANDED.		
Scott Alan Burroughs, Esq. Trevor W. Barrett, Esq. DONIGER / BURROUGHS Attorneys for Plaintiff Novelty Textile, Inc.	L3			
Trevor W. Barrett, Esq. DONIGER / BURROUGHS Attorneys for Plaintiff Novelty Textile, Inc.  18 19 20 21 22 23 24 25 26	L4	14 11	-	
Attorneys for Plaintiff Novelty Textile, Inc.  Attorneys for Plaintiff Novelty Textile, Inc.	L5	Trevor W. E	Barrett, Esq.	
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